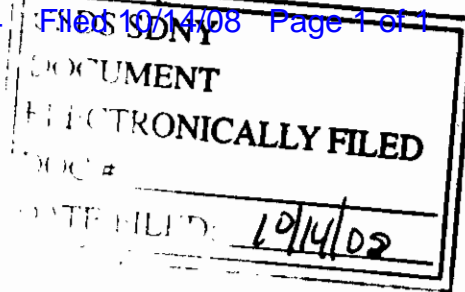


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BOMBARDIER CAPITAL,

Plaintiff,

-v-

UPTON GROVE, LTD, *et al.*,

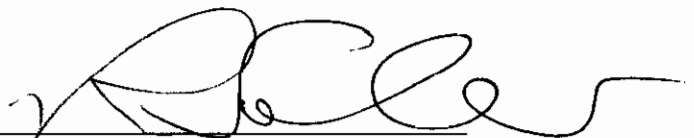
Defendants.

No. 05 Civ. 2148 (RJS)
ORDERRICHARD J. SULLIVAN, District Judge:

Before the Court is Plaintiff's October 13, 2008 letter, submitted on behalf of all parties, indicating that a settlement has been reached in this action and the related parallel proceedings in the District of Arizona. Plaintiff reports that certain payments and disbursements by Defendants serve as a condition precedent to the discontinuance of these actions, but that all payments are expected to be paid by October 16, 2008. Accordingly, it having been reported to the Court that this action has been resolved,

IT IS HEREBY ORDERED that Plaintiff's action before this Court is dismissed with prejudice but without costs; provided, however, that within thirty days of the date of this Order, any party may apply by letter for restoration of this action to the calendar of the undersigned, in which event the action will be restored.

SO ORDERED.

DATED: October 14, 2008
New York, New York
RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE